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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/322,073	05/27/1999	MICHAEL F. GUHEEN	AND1P103	7477

7590 10/22/2002  
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EXAMINER

POND, ROBERT M

ART UNIT PAPER NUMBER

3625

DATE MAILED: 10/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

**Office Action Summary**

Application No.

09/322,073

Applicant(s)

GUHEEN ET AL.

Examiner

Robert M. Pond

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 July 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-10 and 12-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-10 and 12-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

***Response to Amendment***

The Applicant cancelled Claims 3 and 11, and amended Claims 1, 9, and 17.  
All claims pending, Claims 1, 2, 4-10, and 12-17 were examined.

***Response to Arguments***

Applicant's arguments with respect to Claims 1, 2, 4-10, and 12-17 have been considered but are moot in view of the new ground(s) of rejection. This is a non-final rejection.

**DETAILED ACTION**

***Drawings***

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Applicant is required to submit corrected drawings of the noted defects. Applicant is required to submit drawing corrections promptly. Drawing corrections may no longer be held in abeyance. Noted defects include: Most drawings do not fit within the margin requirements as specified under 37 CFR § 1.84 Standards for drawings.

***Specification***

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 2, 4, 7-10, 12, 15-17 are rejected under 35 USC 103(a) as being unpatentable over CACI (a collection of articles cited in PTO-892 Item: U-X), in view of Battat et al., patent number 5,958,012, and further in view of Official Notice, and further in view of Ruffin et al., patent number 6,249,769.**

CACI teaches CACI Products Company announcing a partnership with Computer Associates (CA) to integrate its industry leading network performance prediction products with CA's Unicenter TNG. The integration allows systems and network managers to operate CACI's network performance prediction, capacity planning, advanced network modeling and IT activity analysis capability from the Unicenter TNG console. CACI will also bundle CA's Unicenter TNG

Framework with COMNET III, COMNET Predictor and Enterprise Profiler. CACI teaches IT infrastructure managers as key beneficiaries of the partnership between CACI and CA, and further teaches CACI's COMNET product line and Unicenter TNG's fully integrated enterprise management solution as a natural combination. CACI teaches COMNET Predictor software helping network managers measure the impact of network changes before they are implemented, predict capacity limits, and conduct network link stress testing to measure the effects of link failures on the network (please see at least Item U, pages 1-2). CACI further teaches COMNET Predictor 1.1 software providing automated network capacity planning that allows administrators to quickly show the effect of changing complex network components and traffic before they are made, and use the performance data for better use of installed network gear and make better informed new equipment purchasing decisions (see Item: V, page 1). CACI teaches Predictor 1.1 automatically generating detailed reports and charts which can be posted as HTML hot links to a corporate intranet for easy data sharing. CACI further teaches Predictor 1.1 receiving device and network performance data from network systems management software thanks to integration partnerships with CA (Unicenter TNG), IBM (Tivoli TME), Compuware (EcoScope), and HP (OpenView) (see Item: V, page 1). CACI teaches Enterprise Profiler software being a comprehensive network resource planning tool for monitoring traffic demand and planning for future network requirement. CACI teaches an example of a customer using Enterprise Profiler as an effective

planning tool to estimate bandwidth requirements and the number of servers needed in the network (see Item: W, page 1).

CACI teaches all the above as noted under the 103(a) rejection but does not disclose specific information about Unicenter TNG. Battat et al. teach CA's a network management system comprising hardware and software, Unicenter TNG, that intuitively manages all components of a heterogeneous computer network and displays views of any component, set of components, or business processes (see at least abstract; Fig. 1 (101); col. 4, line 45 through col. 6, line 39). Battat et al. teach automatic detection (auto discovery) of network topology and devices, and automatic layout of logical networks and devices in 3-dimensional space over floor plans or other diagrams (see at least col. 11, line 61 through col. 12, line 8), pictorial representations, color-coded indicia, texture mapping, and shading to highlight indicia and render realistic pictorial representations of infrastructure components and processes (see at least Fig. 10J; Fig. 10K; col. 5, line 5; col. 11, lines 53-60; col. 12, lines 53-56). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to integrate the network management, modeling, and color coded, texturized, and shaded graphical visualizations as taught by Battat et al., in order to operate CACI's prediction and planning tools from the Unicenter TNG console, and thereby provide network managers with end-to-end management and planning capabilities presented in stunningly annotated multi-dimensional pictorial representations.

This examiner takes the position that networking companies typically provide full copies or demo versions of products to their representatives and channel partners to be used for demonstration purposes to generate sales leads. This examiner further takes the position that an effective method of demonstrating the system and method of CACI and Computer Associates to potential customers is to install it at a potential customer's site and allow the integrated network computing solution created by CACI and CA to at least demonstrate a) auto discovery of topology and devices to determine an existing framework, b) display the framework in 2D or 3D pictorial representations with indicia coding that identifies the infrastructure devices, c) establish condition thresholds to report bandwidth and other potential problems, and d) use the Predictor to conduct "what if" scenarios with added or missing devices and infrastructure for planning purposes, problem resolution, or proof-of-concept purposes. Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the system and method of CACI and Battat et al., to use demonstrable versions of products as taught by Official Notice, in order to sell solutions by helping network managers see real-time 2D or 3D visualizations of the network infrastructure and performance conditions as it applies to their own business situations, and thereby establish credibility with network management decision makers.

CACI, Battat et al., and Official Notice teach all the above as noted under the 103(a) rejection and further teach indicia coded graphical presentations of

network infrastructure and devices, and business developers conducting future planning, problem resolution, or proof-of-concept scenarios with potential customers using demo software, but do not specifically disclose a business development process and presentation that indicia codes the components of the network infrastructure to related products and services. Ruffin et al. teach an automated system and method of IBM for a) evaluating particular aspects of a business enterprise and business-related requirements of the enterprise which may include information technology (IT) requirements, and b) utilizing the information to sell and deliver products or services designed to overcome deficiencies in IT or business infrastructure. Ruffin et al. teach a customer engagement process using an opportunity tool set that generates business solution deliverables, and using customized tools or standardized software packages for determining factors such as architecture, the work plan, and the financial business case associated with recommended enhancements (see at least abstract; col. 1, line 1 through col. 4, line 64). Ruffin et al. teach services offered to a qualified customer taking the form of network computing, electronic business (e-business), enterprise resource planning (EP), and enterprise business analysis (see at least col. 5, lines 51-55). Ruffin et al. further teach an example of server consolidation and provides a chart presented to the customer that depicts net savings from server consolidation (see Fig. 7 (700); col. 12, lines 18-25), and further teach "a text generated observation pointing toward migration of the resource to the appropriate island to achieve the cost reduction goal of the



customer" (see at least col. 16, lines 22-31). Otherwise stated, the chart is modified with indicia to which the product and services relate. Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to use the integrated management software and software tools of CACI, Battet et al., and Official Notice as a source of modeling, performance, and graphical information to be indicia coded as taught by Ruffin et al., in order to relate products and services determined to address customer needs, and thereby help decision makers better understand which solutions are necessary at various points in the infrastructure.

CACI, Battat et al., Official Notice, and Ruffin et al. teach all the above as noted under the 103(a) rejection and further teach software which comprises code that is designed to execute a series of logical statements to produce a computational result. Therefore it would have been obvious to one of ordinary skill in the art to include code and logic in the system and method of CACI, Battat et al., Official Notice, and Ruffin, in order to more completely describe fundamental building blocks that support the process of producing product and services deliverables associated with a network infrastructure.

- 4. Claims 5, 6, 13, and 14 are rejected under 35 USC 103(a) as being unpatentable over CACI (a collection of articles cited in PTO-892 Item: U-X), Battat et al., patent number 5,958,012, Official Notice, and Ruffin et al., patent number 6,249,769, and further in view of Official Notice.**

CACI, Battat et al., Official Notice, and Ruffin et al. teach all the above as noted under the 103(a) rejection and teach facilitating business process management of financial, manufacturing, distribution, systems, and network applications, and network management, client/server services, and administrative services (please see at least Battat et al.: col. 2, line 65 through col. 3, line 2; col. 3, lines 15-20). CACI, Battat et al., Official Notice, and Ruffin et al. teach solutions focused in areas of IT design, network computing, electronic business (e-business) applications, enterprise resource planning (ERP), and enterprise business analysis services and further teach facilitating web enablement, data integrity, communications, and operating system environments. CACI, Battat et al., Official Notice, and Ruffin et al. further teach a business solutions assessment process flow as "being readily applied to the determination of any type of business solution offered by a solutions provider, be it in the area IT, plant security, personnel administration, financial services, or site maintenance services, etc." (see at least Ruffin et al.: col. 5, lines 51-57). This examiner takes the position that CACI, Battat et al., Official Notice, and Ruffin et al. demonstrate a system and method capable of assessing a wide range of information technology targeted for business development services including, but not limited to directory services, developer services, and training services and therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the system, method, code and logic of CACI, Battat et al., Official Notice, and Ruffin et al. to include additional technology-related areas as taught

Art Unit: 3625

by Official Notice, in order to sell additional products or services, and thereby increase sales opportunities.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mr. Robert M. Pond** whose telephone number is 703-605-4253. The examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Ms. Wynn Coggins** can be reached on 703-308-1344.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **703-308-1113**.

Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks***

***Washington D.C. 20231***

or faxed to:

**703-305-7687** (Official communications; including After Final communications labeled "Box AF")

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

Application/Control Number: 09/322,073

Page 11

Art Unit: 3625

RMP

October 17, 2002

  
JEFFREY A. SMITH  
PRIMARY EXAMINER